



# University of Hawaii at Manoa

Environmental Center  
Crawford 317 • 2550 Campus Road  
Honolulu, Hawaii 96822  
Telephone (808) 948-7361

Office of the Director

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## SB 2212 RELATING TO DAMS AND RESERVOIRS

Statement for  
Senate Committee on  
Economic Development and Energy and Natural Resource  
Public Hearing - 21 February 1980

By  
L.S. Lau, Water Resource Research Center  
Doak C. Cox, Environmental Center

SB 2212 proposes to add to Hawaii Revised Statutes a "Dam Safety Act." This statement on the bill does not reflect an institutional position of the University of Hawaii.

It should be noted that the U.S. Army Corps of Engineers is conducting an intensive dam safety program nationwide, including Hawaii. If any State legislation related to dam safety is to be passed, it should be ascertained that this legislation does not call for duplication or conflict with the federal program.

If SB 2212 would represent a helpful supplement to the federal program, we suggest that it should be amended to apply (or to clarify its application) not only to those embankments intended primarily to serve as dams, but also highway embankments that may function as dams in flood conditions. An example is a highway embankment just above the Pauwela Reservoir near the pineapple cannery at Pauwela, Maui. If the 5-foot by 5-foot concrete box culvert passing through this embankment were unable to pass the floodwaters arriving at the embankment, the embankment could retain about 55 acre feet. The dimensions of the embankment and of the potential floodwater storage are such that it would fall under the provisions of SB 2212, but the embankment is not technically a dam and might perhaps not be considered one under the definition of "dam" in Section 3 of the proposed Act.

Section 4 of the proposed Act would limit the liability of the State for the consequences of dam facilities. To some extent, if the State undertakes a responsibility for dam safety, it is possible that it cannot escape some liability for a failure. In any case, the State cannot escape responsibility for the failure of a dam or highway embankment that it has constructed.